

From: [Ellen Justice](#)
To: [Heldenfels, Leane](#)
Subject: Fwd: SP - 2016-0329C/ Missing from c15-2017-0008
Date: Thursday, March 30, 2017 11:43:48 AM

Leane,

I didn't see this email on the BoA download. Not a big deal, but since I have Kim Overton on the list of persons who have opposed the variance I want to be sure this email is in the next download.

Thank you for your help.

— Ellen Justice

Begin forwarded message:

From: Kim Overton <[REDACTED]>
Subject: Fwd: SP - 2016-0329C
Date: March 1, 2017 at 7:55:01 AM CST
To: leane.heldenfels@austintexas.gov
Cc: [REDACTED]

This is a resend - Leane's email was misspelled the first time:

Begin forwarded message:

From: Kim Overton <[REDACTED]>
Date: March 01, 2017 7:47:13 AM
To: leane.heldendels@austintexas.gov
Cc: [REDACTED]

Good morning, Leane,

I'm writing in reference to 804 Winflo Drive, SP-2016-0329C.

I am the owner and resident of 703 Brownlee Circle. My husband and I oppose the granting of a variance which would allow for multi-family building on this lot. We are, however, okay with a duplex.

Please let me know if you have any questions regarding my email.

Thank you kindly,

Kim

From: [REDACTED]
To: [Heldenfels, Leane](#)
Subject: Case C15-2017-0008 804 Winflo Dr
Date: Sunday, April 02, 2017 12:04:45 PM

Hi Leane, I received a notice about the hearing for the variance for 804 Winflo. I OBJECT to the variance request. Prior to the developer purchasing the property, there was a single family dwelling on the land. OWANA does not need another multifamily dwelling. The MF status should have been rolled back when the neighborhood plan called for it many years ago. In addition, the property should be held to the same "McMansion" rules as a single family dwelling would.

Thanks,
Denise Younger
700 Pressler

From: [Jessica Wassenaar](#)
To: [Heldenfels, Leane](#)
Cc: [Ellen Justice](#)
Subject: 804 Winflo, c15-2017-0008, 2017 - 000005BA
Date: Monday, April 03, 2017 6:56:10 PM

Leane,

I'm writing about the variance request for 804 Winflo as detailed in the subject line. I have owned the property at 803 Pressler for over 13 years - which is behind and downhill from the property in question. Whenever there is a heavy rainfall my property feels the impact tremendously with our driveway flooding. Reduced green space, as this variance requests, will only make the situation worse and will have an adverse impact on several properties along Pressler.

Thank you for your time,

Jessica Hymowitz Wassenaar

Reply to Variance Application by Patricia Schaub and letter from Mike McHone, including drawings

1. The City has a right to expect that a licensed architect consulted the Land Use Code in designing a project and that any plans submitted were in accordance with land use requirements
2. Section 25-2-943 of the Land Development Code indicates that single-family and commercial uses proposed for development may be grandfathered if the subject lot is of substandard size. However, such "amnesty" does not apply when the lot is to be developed for multi-family use. This was determined by Greg Guernsey, the director of the Austin Planning and Zoning Department. See email at the end of these replies.
3. Mr. McHone's concluding comment that "a triplex could be built," according to the Code is incorrect. The "Note" contained in the City's Notice of Public Hearing on the variance explains that the substandard lot section of the Code (Section 25-2-943) does not apply since the subject lot was configured in 1948 and proposes a multifamily use. And, "Further, the Old West Austin Neighborhood Plan only provides small lot amnesty for single family use."
4. The applicant and her husband own four of the six condominiums at 806 Winflo Drive, and have presumably occupied one as a "second home" since 2009. (Their Dallas home has been claimed as their homestead since 2009.). The "unused buffer of land" at that address is a common element of the Homeowners' Association; they do not own it. Its retaining wall was likely constructed to maintain a proper grade for the parking lot at 806. This "unused buffer" is essential pervious cover since almost all of the remainder of the six-plex lot is impervious cover.
5. Any "additional and substantial improvements" to be made at 806 Winflo would be made by the HOA.
6. Regarding flooding: Since 9th Street at the foot of Winflo Drive already floods, the addition of 64.96% impervious cover up the hill can only worsen this.
7. To my knowledge, there were no discussions with nearby neighbors in connection with "a feasibility study done by a local architect." Certainly no one contacted us, the next-door neighbors.
8. None of the neighbors I have spoken to were contacted by the Schaub's to discuss the project before their plans were submitted to the City on July 12, 2016. I received an email from Patti Schaub on July 28th which contained an elevation of the planned triplex and a brief description (among documents already submitted to the Board). I replied that it looked attractive and that I was glad it was sited closer to 806 than to our house at 802. And, I wished her good luck with the permitting process. (That email is

attached at the end of these replies.) I had naively believed that their project would have the same impervious cover as our house (45%). And, I had no way to anticipate the very wide driveway (20 feet at the front lot line) that stretches from the very back of their lot to the street.

The next time that we and other neighbors had contact with the Schaub family was when they circulated a petition near the end of December 2016, asking neighbors to sign in support of their variance application. Also, I spoke with Patti Schaub by phone in early January. She proposed that they could possibly satisfy our objections to their triplex by building a higher fence between our properties, or some other minor modification. I suggested that they could build a duplex. I hardly know Patti, but she seems like a nice person. I and the other neighbors wish their family well. We would be delighted to have their duplex (no variance required; considered SF) at 804.

9. The Schaub family has said (at the OWANA zoning committee and general membership meeting) that they plan to live in two of the three units at 804 Winflo, if it is built. However, there is no guarantee that will happen, in spite of their best intentions. Indeed, please refer to the July 28, 2016 email that Patti Schaub sent me (Ellen Justice) in which she states that they intend to rent out two of the units. Evidently, the plan to have their son occupy one of those two units was arrived at later. This is simply one illustration of how plans can change. Instead of a long-term family occupancy, the triplex may become typical rental property, with more transient tenants.

10. Regarding downloads titled "BOA scanned drawings:" If these are accurate as to current zoning, they nonetheless do not show the "use" of each property. Our lot at 802 Winflo is zoned MF-4, but we have a single-family house. And, 800 and 706 Winflo are similarly SF uses. This SF use vastly predominates in our neighborhood where lots are zoned MF.

11. Regarding "Area Character:" The lots adjacent to 804 Winflo Drive are our house at 802 Winflo, 805 Pressler, 807 Pressler, and 806 Winflo. The subject lot is across the street from 803 and 805 Winflo.

802 Winflo and 805 Pressler and 807 Pressler are single-family homes. 806 Winflo is a six-unit condominium where the Schaub family own four of the units. 805 Winflo is a single-family home. 803 Winflo is a 2,368 sq. ft. fourplex on an 11,535 sq.ft. lot. Our house has a Five Star Green Energy rating from the City of Austin and has 55% pervious cover, as well as extensive native landscaping. Our lot will be beside a twenty-foot wide driveway that touches our side fence (except for a few feet) along its entire 133 foot length (to the street). We dread the "heat island" effect and additional noise this will create. We disagree with the assertion in the Application that there will be "harmony" with the adjacent property. Their design for the three apartments (two facing our house) seems inoffensive, but the scale of their project does not "harmonize" with our house or neighbors to the south and west of the proposed site.

12. The four "Similar Properties," said to establish that construction of a multi-family property on a substandard lot is general to the area were built in 1930, 1940, 1960, and 1966. 913 West Lynn, which is a five-plex, is located on a major thoroughfare with Mathews Elementary School, apartment buildings and businesses.

Here are the living area square footages and the lot square footages from information available at Travis CAD:

614 Highland (property ID 106621) - LA is 2,024 SF; lot 7,169 SF (built in 1960)
707 Highland (property ID 106702) - LA is 2,472; lot 4,780 SF (built in 1930)
803 Oakland (property ID 106747) - LA is 1,780 SF; lot 6,914 SF (built in 1940)
913 West Lynn (property ID 109284) - LA is 3,480 SF; lot 7,866 SF (built in 1966)

Note that the square footage of two of these four "similar" properties have less than half the square footage of 804 Winflo (4,299.67 SF). One property is slightly over half that size. And the five-plex at 913 West Lynn is 819.67 square feet smaller than the 804 Winflo triplex.

See the two emails below:

Hi, Ellen....

I can confirm that the information within your e-mail is correct as the staff and I understand Mr. Guernsey's interpretation of the Code in regard to the 804 Winflo case.

Michael Simmons-Smith, Senior Planner
City of Austin Development Services Department

Land Use Review
505 Barton Springs Road, 4th Floor
Austin, Texas 78704

 (512) 974-1225

From: Ellen Justice [<mailto:ellenjustice@mac.com>] **Sent:** Monday, April 03, 2017 1:38 PM **To:** Simmons-Smith, Michael **Subject:** 804 Winflo/ c15-2017-0008/ 2017-000005BA

Dear Mr. Simmons-Smith (Case Manager at the Development Services Department),

Please confirm or correct this information:

It has been determined, by the Planning and Zoning Department director (Greg Guernsey), that Section 25-2-943 of the Land Development Code (LDC) indicates that single-family and commercial uses proposed for development may be grandfathered if the lot intended to be developed upon is of substandard size. However, the Code stipulates that single-family and commercial land uses are eligible for such grandfathering, and not multifamily uses. So, there can be no construction of a multi-family use on the lot at 804 Winflo Drive unless a variance to the lot-size requirement of the LDC is granted by the Board of Adjustment.

Thank you for your help.
— Ellen Justice

-----Original Message-----

From: Ellen Justice <[REDACTED]>
To: Schaubtex [REDACTED]
Sent: Sun, Jul 31, 2016 7:47 pm
Subject: Re: from Patti 806/804 Winflo

Patti,

Thank you for sending this! Your design is very attractive, and it's delightful that the structure is on the far side (from us) of your lot.

Please ask your contractor to take special note of the tree on our lot that is beside where your driveway will be - and doubtless where there will be lots of deliveries of materials. We'd appreciate it if he'd urge his subs and suppliers to take care not to rip off any limbs. I think this won't be a problem except possibly for very tall trucks and equipment.

Good luck with the permitting process; it can be a bear.

Best wishes,

— Ellen

From: [Ellen Justice](#)
To: [Heldenfels, Leane](#)
Subject: mistake on photo caption I've sent - 804 Winflo
Date: Tuesday, April 04, 2017 10:50:43 AM

Leane,

Looking over the photos I've sent I saw a typo. The photo of the overflowing dumpster is of one located at 808 Winflo, and not 806 Winflo, as it is labeled.

Please include this message in the materials for the BoA members.

Thank you for your help.

— Ellen Justice

PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, **you are not required to attend.** However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed application. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice will be sent.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (*it may be delivered to the contact person listed on a notice*); or
- appearing and speaking for the record at the public hearing; and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: www.austintexas.gov/devservices

Written comments must be submitted to the contact person listed on the notice before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice. **All comments received will become part of the public record of this case.**

Case Number: C15-2017-0008, 804 Winflo Dr.
Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov
Public Hearing: Board of Adjustment, April 10th, 2017

Sean Brown

Your Name (please print)

712 Brownee Cr

Your address(es) affected by this application

See Mr. W

Signature

4/11/17

Date

Daytime Telephone: 512-587-9933

Comments:

I live 4-5 lots over from the vacant lot at 804 Winflo I am in favor of this development. A triplex will contribute missing single housing that benefits the neighborhood and city. More families will be able to walk to the park, new central library, and underpopulated neighborhoods. More residents can walk to work downtown, and the new Stratford Austin aligns with long-term Austin and the new Stratford Austin aligns with long-term Austin comments must be returned by noon the day of the hearing in order to be seen by the Board at this hearing. They may be sent by either:

I am in favor
 I object

Mail: City of Austin-Development Services Department/ 1st Floor

Leane Heldenfels
P. O. Box 1088
Austin, TX 78767-1088

(Note: mailed comments must be postmarked by the Wed prior to the hearing to be received timely)

Fax: (512) 974-6305
Email: leane.heldenfels@austintexas.gov

PUBLIC HEARING INFORMATION

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Case Number: C15-2017-0008, 804 Winflo Dr.
Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov
Public Hearing: Board of Adjustment, April 10th, 2017

Heyeon Brown

Your Name (please print)

I am in favor
 I object

712 Brewster Cir, Austin, TX 78703

Your address(es) affected by this application

Heyeon Brown

Signature

4/3/17
Date

Daytime Telephone: *512-567-3749*

Comments: *I'd like to have more families in this neighborhood and I think multi-family homes will help young couples to move into this neighborhood, which will make Sparksville more lively.*

Comments must be returned by noon the day of the hearing in order to be seen by the Board at this hearing. They may be sent by either:

Mail: City of Austin-Development Services Department/ 1st Floor
Leane Heldenfels
P. O. Box 1088
Austin, TX 78767-1088

(Note: mailed comments must be postmarked by the Wed prior to the hearing to be received timely)

Fax: (512) 974-6305
Email: leane.heldenfels@austintexas.gov

From: [Perry H](#)
To: [Heldenfels, Leane](#)
Subject: Re: 804 Winflo, C15-2017-0008, 2017-000005BA
Date: Wednesday, April 05, 2017 1:30:26 PM

Ms. Heldenfels:

I am opposed to allowing the requested variance in the above-referenced case.

I write to point out a few discrepancies in the Schaub's application for a variance and representations. The applicant, Patricia Schaub, represents herself as the owner of 804 Winflo; but, in fact, Winflo Holdings LLC is listed as the owner in TCAD records. Winflo Holdings LLC purchased the property on June 29, 2015. Winflo Holdings also holds title to property at 806 Winflo. TCAD records show the Schaub's purchased 806 Winflo on July 27, 2005, and transferred the property to Winflo Holdings LLC on June 1, 2015. Winflo Holdings LLC was formed on or about June 1, 2015, and appears to be owned entirely by William and Patricia Schaub.

The fact that Winflo Holdings LLC not the Schaub's owns 804 Winflo suggests to me that 804 Winflo was purchased as an investment and not to build their dream home as Mr. Schaub represented to OWANA membership on March 7th. TCAD confirmed to me that a property held by an LLC cannot qualify for the homestead exemption. It seems unlikely to me that one would build a dream home under a corporate umbrella and certainly not if doing so forfeited the homestead exemption. Taken together, the above facts make me suspicious that they purchased this property for any purpose than investment.

In addition, Mr. Schaub's explanation that he believed that part of the lot next door belonged to 804 Winflo does not make sense. A casual passerby would most certainly conclude that the parcel belongs to 806 Winflo. The fence between the lots appears to be on the property line, which if carried to the street, clearly suggests that the parcel belongs to 806 Winflo. And, the Schaub's are not disinterested. They own both lots and should have learned the boundaries when they purchased each lot.

Therefore, in addition to my concern that granting the variance has would lead to future variances and damage the fabric of our neighborhood, the Schaub's knew or should have known the limitations of developing 804 Winflo before they purchased it. Accordingly, there is no hardship.

Respectfully,

Perry Heitman
804 Pressler St.

Sending from my mobile. . . please excuse typos

PARK VIEW SUBDIVISION

ZONING CASE: SP-2016-0329C
804 Winflo Drive

Core concern: Allowing 804 Winflo Drive to be developed on a substandard lot size sets precedent for other properties in red to be developed as multi-family even though they are far too small for the zoning they are endowed. Properties in red also ripe for redevelopment.



804 WINFLO - Lot size: 7,354sf

All lot size data pulled from Travis Central Appraisal District website.



614 WINFLO - Lot size: 6,441sf



711 BROWNLEE Lot size: 6,914sf

RED

Lot is 600+ square feet under minimum lot size requirements for this zoning.

GREEN

Lot exceeds minimum size requirements or is within 5% of the minimum lot size for MF zoning.

Example for 8,000sf lot	SF-3	MF-3	MF-4
The lot must be at least this many square feet:	5,750	8,000	8,000
You can build a structure up to this many square feet on 8,000sf lot:	3,200	6,000	6,000
The structure itself can cover up to this much of the lot:	40%	55%	60%
Total impervious cover (structure, driveways, etc.) cannot exceed:	45%	65%	70%
And the maximum height of the structure cannot exceed:	32'	40'	60'